

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

WILLIAM DURHAM, JR.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 04-297 Erie
	)	
CITY AND COUNTY OF ERIE, et al.,	)	
	)	<b>Electronically Filed</b>
Defendants.	)	

**DEFENDANT TACKETT'S STATEMENT OF UNDISPUTED MATERIAL FACTS**

AND NOW, comes Mr. Tackett, by his attorneys, Thomas W. Corbett, Jr., Attorney General, Kemal Alexander Mericli, Senior Deputy Attorney General, Susan J. Forney, Chief Deputy Attorney General, Chief Litigation Section, and respectfully submits the following:

1. Mr. Tackett did not do the DNA testing at the Lawrence Park, Pennsylvania lab where he works nor did he write the report of its results; these were both done by another State Police criminalist at another lab at Greensburg, Pennsylvania. Durham Deposition 69-78.

2. All he did was read the results of the report into evidence at Mr. Durham's first trial, without objection, by quoting or paraphrasing key portions of it. Id.

3. A comparison of the report (Exhibit B of plaintiff's complaint) with his trial testimony shows that he did so scrupulously and accurately. Id.

4. This was the extent of Mr. Tackett's involvement with the DNA testing in Mr. Durham's case at his original trial that resulted in conviction.

5. Mr. Tackett believes Mr. Durham was acquitted at the retrial on the basis of a consent defense. See Mr. Tackett's response to requests for admission by Mr. Durham.

6. There is no evidence he conspired with Judge Anthony and Mr. McElynn to violate plaintiff's right to a fair trial on that he had any further involvement in plaintiff's trial.

Respectfully submitted,

**THOMAS W. CORBETT, JR.**  
**Attorney General**

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Date: July 11, 2006

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the within Defendant Tackett's Statement of Undisputed Material Facts was served upon the following via electronic/first-class mail on July 11, 2006.

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